

**THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

UNITED STATES) Case No. 17 CR 495
v.)
) Judge Andrea R. Wood
ROBERT O'ROURKE) Magistrate Judge Michael T. Mason

**DEFENDANT'S UNOPPOSED MOTION FOR EXTENSION
OF TIME TO FILE RULE 33(b)(2) MOTION FOR A NEW TRIAL**

Defendant, Robert O'Rourke (“Mr. O’Rourke”), by and through his counsel, Kulwin, Masciopinto & Kulwin, LLP, respectfully moves this Honorable Court, with no objection from the Government, for entry of an Order granting Mr. O’Rourke’s motion to extend the time to file his Federal Rule of Criminal Procedure 33(b)(2) motion for a new trial from March 11, 2019 to March 25, 2019. In support of this motion, Mr. O’Rourke states as follows:

1. On February 25, 2019, the jury returned a verdict of guilty against Mr. O’Rourke on 10 of the 26 counts charged in the indictment. On the same day, the Court entered a briefing schedule on Mr. O’Rourke FRCP 29(c) motion which is currently due on or before March 25, 2019. No briefing schedule was requested or entered for any FRCP 33(b)(2) motion.

2. Pursuant to FRCP 33(b)(2), Mr. O’Rourke motion for a new trial is due on or before March 11, 2019. *See* FRCP 33(b)(2) (“[a]ny motion for a new trial grounded on any reason other than newly discovered evidence must be filed within 14 days after the verdict or finding of guilty.”). However, FRCP 33 is “nonjurisdictional,” *Eberhart v. United States* 546 U.S. 12, 19 (2005), and is therefore subject to extension under FRCP 45(b)(2), *id.* As such, Mr. O’Rourke respectfully moves this Honorable Court to extend the time to file any FRCP 33(b)(2) motion from March 11, 2019 to March 25, 2019.

3. Defense counsel has conferred with the government and there is no objection to this motion.

WHEREFORE, Defendant Robert O'Rourke respectfully moves this Honorable Court to grant this Motion and extend the briefing schedule on any FRCP 33(b)(2) motion from March 11, 2019 to March 25, 2019.

Respectfully Submitted,

KULWIN, MASCIOPINTO & KULWIN, LLP

By: /s/ Rachel A. Katz
One of Defendant's Attorneys

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CERTIFICATE OF SERVICE

I, Rachel A. Katz, an attorney, hereby certify that the above *Defendant's Unopposed Motion for Extension of Time to File Rule 33(b)(2) Motion for a New Trial* was served upon all counsel of record via ECF Filing on February 27, 2019.

By: /s/ Rachel A. Katz
One of Defendant's Attorneys